

REMARKS

This Amendment After Final is submitted in response to the Office Action dated January 11, 2005. In the Office Action, the Examiner allowed claims 37-52, 76, 79-84, 90-92, and 98-100; rejected claims 74-75, 77-78, 85-88, and 93-96; and objected to claims 89 and 97. With this Amendment After Final, claims 75 and 78 are amended, claims 74, 77, 85-86, 89, 93-94, and 97 are canceled; and no new claims are added. Upon entry of this Amendment After Final, the above-identified application will include claims 37-52, 75-76, 78-84, 87-88, 90-92, 95-96, and 98-100.

As discussed below, in the Office Action, the Examiner objected to claims 89 and 97, but stated that objected to claims 89 and 97 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." In this Amendment After Final, Applicant is merely amending claim 75 to incorporate the features of claim 89 and thereby effectively conform with the Examiner's suggestion that claim 89 be "rewritten in independent form including all of the limitations of the base claim and any intervening claims." Likewise, in this Amendment After Final, Applicant is merely amending claim 78 to incorporate the features of claim 97 and thereby effectively conform with the Examiner's suggestion that claim 97 be "rewritten in independent form including all of the limitations of the base claim and any intervening claims." Consequently, Applicant respectfully requests entry and consideration of the amendments to claims 75 and 78 in accordance with 37 C.F.R. §1.116, since claims 75 and 78 are merely amended in accordance with the Examiner's suggestion in the present Office Action. Therefore, no new search is required as a result of this amendment of claims 75 and 78.

Though claims 75 and 78 are amended via this Amendment After Final, Applicant continues to believe claims 75 and 78 are allowable, both as originally presented in the above-identified application and as these claims existed prior to this present request to amend these claims. Therefore, Applicant is amending claims 75 and 78 without prejudice to Applicant's right to pursue claims worded like claims 75 and 78, as originally presented or as worded anytime subsequent to original presentation, in a continuation application that is based on the above-identified application. Also, though claims 74, 77, 85-86, 89, 93-94, and 97 are canceled via this Amendment After Final,

Applicant continues to believe claims 74, 77, 85-86, 89, 93-94, and 97 are allowable, both as originally presented in the above-identified application and as these claims existed prior to this present request to cancel these claims. Therefore, Applicant is canceling claims 74, 77, 85-86, 89, 93-94, and 97 without prejudice to Applicant's right to pursue claims worded like claims 74, 77, 85-86, 89, 93-94, and 97, as originally presented or as worded anytime subsequent to original presentation, in a continuation application that is based on the above-identified application.

***Claim Rejections Under 35 U.S.C. §102(b) Based On The Spertus Patent Or The Nakayama Patent***

In the Office Action, the Examiner rejected claims 74, 77, 85-86, and 93-94 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 3,546,055 to Spertus (subsequently referred to as the "Spertus patent"). In support of this rejection, the Examiner stated:

See Figures 1 and column 3, lines 15-25 of Spertus. The Examiner takes the case of the threads abutting as forming a netting structure. The material of the net structure maybe a wire or twine, which is a different material than the foam of the impact members, which are attached to the net structure.

Despite the Examiner's comments, the Spertus patent does not disclose each and every feature required by claims 74, 77, 85-86, and 93-94. Consequently, the Spertus patent does not anticipate any of claims 74, 77, 85-86, and 93-94.

Nonetheless, as indicated above, claims 74, 77, 85-86, and 93-94 have been canceled from the above-identified application. This cancellation of claims 74, 77, 85-86, and 93-94 renders the Examiner's rejection of claims 74, 77, 85-86, and 93-94 under 35 U.S.C. §102(b) based on the Spertus patent moot and is therefore believed to adequately address the Examiner's rejection of claims 74, 77, 85-86, and 93-94 under 35 U.S.C. §102(b) based on the Spertus patent. Applicant's cancellation of claims 74, 77, 85-86, and 93-94 is not to be taken as an admission on Applicant's part as to the validity of the Examiner's rejection of claims 74, 77, 85-86, and 93-94 under 35 U.S.C. §102(b) based on the Spertus patent and is not to be taken as an admission on Applicant's part as to the validity of any of the Examiner's comments provided in support of the rejection of claims 74, 77, 85-86, and 93-94 under 35 U.S.C. §102(b) based on the Spertus patent.

***Claim Rejections Under 35 U.S.C. §102(b) Based On The Habib Patent Or The Bethe Patent***

In the Office Action, the Examiner rejected claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 3,285,768 to Habib (subsequently referred to as the "Habib patent") or by U.S. Patent No. 3,961,001 to Bethe (subsequently referred to as the Bethe patent"). In support of this rejection, the Examiner stated:

See Figure 4 of Habib and Figure 5 of Bethe. The Examiner takes the projections as being attached to the fabric and in contact with each other.

Despite the Examiner's comments provided above, neither the Habib patent nor the Bethe patent disclose each and every detail required by claims 75, 78, 87-88, and 95-96. Consequently, neither the Habib patent nor the Bethe patent anticipates any of claims 75, 78, 87-88, and 95-96.

As indicated above, claim 75 has been amended to include the details of claim 89 which the Examiner objected to "as being dependent upon a rejected base claim," but indicated "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Claim 89, now canceled, formerly depended directly from claim 75. This amendment of claim 75 to incorporate the features of claim 89 is believed to moot the Examiner's rejection of claim 75 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent.

Also as indicated above, claim 78 has been amended to include the details of claim 97 which the Examiner objected to "as being dependent upon a rejected base claim," but indicated "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Claim 97, now canceled, formerly depended directly from claim 78. This amendment of claim 78 to incorporate the features of claim 97 is believed to moot the Examiner's rejection of claim 78 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent.

This amendment of claims 75 and 78 renders the Examiner's rejection of claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent moot and is therefore believed to adequately address the Examiner's rejection of claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent. Applicant's amendment of claims 75 and 78 is not to be taken as an admission on Applicant's part as to the validity of the Examiner's rejection of claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) based on the Habib

patent and the Bethe patent and is not to be taken as an admission on Applicant's part as to the validity of any of the Examiner's comments provided in support of the rejection of claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent.

Claims 75 and 78 are each believed allowable. Claims 87-88 and 95-96 are also believed allowable, since claims 87-88 each depend from allowable claim 75 and since claims 95-96 each depend from allowable claim 78. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 75, 78, 87-88, and 95-96 under 35 U.S.C. §102(b) based on the Habib patent and the Bethe patent and that claims 75, 78, 87-88, and 95-96 each be allowed.

***Claim Objections.***

In the Office Action, the Examiner objected to claims 89 and 97 "as being dependent upon a rejected base claim," but stated claims 89 and 97 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." As indicated above, Applicant has incorporated the features of claim 89 into independent claim 75, as requested by the Examiner. Claim 89, now canceled, formerly depended directly from claim 75. This amendment of claim 75 to incorporate the features of claim 89 is believed to adequately address the Examiner's objection to claim 89. Also as indicated above, Applicant has incorporated the features of claim 97 into independent claim 78, as requested by the Examiner. Claim 97, now canceled, formerly depended directly from claim 78. This amendment of claim 78 to incorporate the features of claim 97 is believed to adequately address the Examiner's objection to claim 97.

Claims 75 and 78 are each believed allowable. Claims 87-88 and 95-96 are also believed allowable, since claims 87-88 each depend from allowable claim 75 and since claims 95-96 each depend from allowable claim 78. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to claims 89 and 97 and that claims 75, 78, 87-88, and 95-96 each be allowed.

CONCLUSION

Claims 37-52, 76, 79-84, 90-92, and 98-100 have been allowed. Continued allowance of claims 37-52, 76, 79-84, 90-92, and 98-100 is respectfully requested. Claims 75, 78, 87-88, and 95-96 are each believed allowable. Consequently, Applicant respectfully requests reconsideration and allowance of claims 75, 78, 87-88, and 95-96. The Examiner is invited to contact Applicant's below-named attorney to discuss any aspect of the above-identified application and facilitate allowance of this application.

Respectfully submitted,  
KINNEY & LANGE, P.A.

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